

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
KAREN R. BAKER, JUDGE

DIVISION IV

CACR07-633

MARCH 19, 2008

STEPHEN BRENT KELLEY

APPELLANT

v.

STATE OF ARKANSAS

APPELLEE

APPEAL FROM THE WASHINGTON  
COUNTY CIRCUIT COURT  
[NO. CR-06-2471-1]

HONORABLE WILLIAM A. STORY,  
JUDGE

REBRIEFING ORDERED

A jury in Washington County Circuit Court convicted appellant Stephen Brent Kelley of two counts of computer child pornography and one count of internet stalking of a child. He was sentenced to sixty months' imprisonment and fined \$1500 for the pornography convictions and sentenced to eighty-four months' imprisonment for the stalking conviction. His sentences were to run consecutively. Because appellant's abstract and addendum are flagrantly deficient, we remand for rebriefing.

Arkansas Supreme Court Rule 4-2(a)(5) (2007) provides in pertinent part:

The appellant's abstract or abridgment of the transcript should consist of an impartial condensation, without comment or emphasis, of only such material parts of the testimony of the witnesses and colloquies between the court and counsel and other parties as are necessary to an understanding of all questions presented to the Court for decision.

Moreover, Ark. Sup. Ct. Rule 4-2(a)(8) states in pertinent part:

[A]ppellant's brief shall contain an Addendum which shall include true and legible photocopies of the order, judgment, decree, ruling, letter opinion, or Workers' Compensation Commission opinion from which the appeal is taken, along with any other relevant pleadings, documents, or exhibits essential to an understanding of the case and the Court's jurisdiction on appeal.

Section (b)(3) of Rule 4-2 explains the procedure to be followed when an appellant has failed to supply this court with a sufficient brief. Section (b)(3) states:

Whether or not the appellee has called attention to deficiencies in the appellant's abstract or Addendum, the Court may address the question at any time. If the Court finds the abstract or Addendum to be deficient such that the Court cannot reach the merits of the case, or such as to cause an unreasonable or unjust delay in the disposition of the appeal, the Court will notify the appellant that he or she will be afforded an opportunity to cure any deficiencies, and has fifteen days within which to file a substituted abstract, Addendum, and brief, at his or her own expense, to conform to Rule 4-2 (a)(5) and (8). Mere modifications of the original brief by the appellant, as by interlineation, will not be accepted by the Clerk. Upon the filing of such a substituted brief by the appellant, the appellee will be afforded an opportunity to revise or supplement the brief, at the expense of the appellant or the appellant's counsel, as the Court may direct. If after the opportunity to cure the deficiencies, the appellant fails to file a complying abstract, Addendum and brief within the prescribed time, the judgment or decree may be affirmed for noncompliance with the Rule.

In the present case, a hearing on motions was held on February 27, 2007, and a jury trial was held on February 28, 2007. Rather than abstracting the transcript of this hearing and jury trial as required by Rule 4-2(a)(5), appellant simply reproduced the transcript in the original question and answer format. Moreover, in violation of Rule 4-2(a)(8), appellant failed to include in the addendum relevant documents essential to an understanding of the case, specifically, copies of the e-mails between appellant and the victim. Because appellant has failed to comply with Rules 4-2(a)(5) and (8), we order appellant to file a substituted abstract, addendum, and brief within fifteen days from the date of entry of this order. If appellant fails to do so within the prescribed time, the order appealed from may be affirmed for noncompliance with Rule 4-2.

Rebriefing ordered.

MARSHALL and HEFFLEY, JJ., agree.